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NMFS Proposes Additional Protection for Right Whales

The northern right whale is the large whale species most in danger of becoming extinct in the near future. It is estimated that there are approximately 300 northern right whales remaining in the Northwest Atlantic Ocean. Little is known about the biology or behavior of these whales beyond what may be gleaned by identifying individuals by their unique markings and by using satellite tags to determine where the whales go when they leave their feeding and calving grounds. In the last twelve months, there have been 9 confirmed right whale mortalities. Although the cause of all mortalities could not be determined, it is unquestionable that these mortalities have a severe impact on the population. We do know that increasing vessel traffic and occasional interactions with fishing gear are among the factors delaying the recovery of this species from the historical impacts of commercial whaling.

NMFS is proposing several actions designed to provide additional protection for right whales. Federal actions will focus primarily on the major causes of known mortalities - ship strikes, harassment of whales, and entanglement in fishing gear.

At the recommendation of Right Whale Recovery Team, and in response to a petition received from GreenWorld, Inc., NMFS is proposing to prohibit most approaches within 500 yards of a northern right whale (August 7, 1996, Federal Register).

Vessel interactions, especially ship strikes, have been identified as one of the major threats facing these whales. NMFS estimates that ship strikes are responsible for about one right whale mortality per year. The recovery plan developed for the northern right whale also recognizes that human-induced disturbances are another factor impeding the recovery of the population. Approaches to marine mammals by aircraft below certain altitudes have the potential to harass marine mammals. Direct contact between humans and marine mammals is rare, but NMFS has received reports of "buzzing" incidents, where a person on a small high-speed ("jet ski") or other watercraft deliberately approaches a marine mammal, swimming and scuba activities near marine mammals, touching or petting incidents, as well as photography and video activities. If whales

become accustomed to vessels and related activity they may become especially vulnerable to vessel collision or other adverse impacts.

The proposed rule for protection of right whales would:

- ! prohibit approaching within 500 yards of a right whale- prohibit head-on approaches to northern right whales once a right whale has been sighted
- ! prohibit the positioning of a vessel in the path of a right whale
- ! require right whale avoidance measures necessary to avoid a take under the MMPA or ESA.

On July 16, 1996, NMFS published in the Federal Register a proposed list of fisheries (LOF) for 1997 ([see article below](#)). Based on a review of 1990-1994 large whale entanglement reports received by the agency, NMFS has reports of at least 1 right whale, 11 humpback whales, and 6 minke whales seriously injured or killed as a result of interactions with lobster pot gear. NMFS has determined that this level of incidental serious injury and mortality to these endangered whale populations warrants a proposed reclassification of all lobster trap/pot fisheries in the Gulf of Maine and mid-Atlantic into Category I. Vessel owners or operators in Category 1 fisheries must register their vessels with NMFS, pay a registration fee, and, if requested, carry observers on board their vessels who will gather information on the impact of fishing operations on marine mammals. Public comments on the proposed LOF must be received by NMFS by October 15, 1996.

To address takes of northern right whales and other large whales in commercial fisheries of the Northwest Atlantic, NMFS announced the establishment of a Large Whale Take Reduction Team (TRT) on August 6, 1996 in the Federal Register. The team will focus on the lobster pot/trap fishery, the southeastern U.S. Atlantic shark gillnet fishery, the mid-Atlantic coastal gillnet fishery, and the Gulf of Maine sink-gillnet fishery. Members of the Large Whale TRT include representatives from NMFS, state resource and environmental departments, environmental groups, fishery management councils, fishermen's associations, and marine mammal biologists. The first meeting of the team will be held on September 16-17, 1996 at the Tara's Ferncroft Resort in Danvers, Massachusetts. Meetings are open to the public and will be held from approximately 9AM to 5PM each day.

For more information on conservation efforts regarding right whales and other large whales in the Northwest Atlantic Ocean, contact [Mike Payne](#) at (301) 713-2322.

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Proposed List of Fisheries for 1997 Published

NMFS published the proposed List of Fisheries (LOF) for 1997 on July 16, 1996. The LOF, published pursuant to Section 118 of the MMPA, classifies all U.S. commercial fisheries into one of three categories based on the level of serious injury and mortality of marine mammals that

occur incidental to fishing operations. A description of the classification scheme is located in the final rule implementing Section 118 (August 30, 1995, Federal Register). As a result of NMFS' review of available data on the levels of marine mammal incidental serious injury and mortality in commercial fisheries, several changes to the LOF are now being proposed:

- ! Reclassification of the Gulf of Maine/U.S. mid-Atlantic lobster pot/trap fisheries from Category III to Category I based on serious injuries and mortalities of right whales and humpback whales.
- ! Reclassification of the California squid purse seine fishery from Category III to Category II based on historical interactions between this fishery and pilot whales.
- ! Combination of the offshore monkfish bottom gillnet (Category III) with either the New England multispecies sink gillnet fishery (Category I) or the U.S. mid-Atlantic coastal gillnet fishery (Category II). All fishers using bottom gillnet gear to target monkfish would register under Category I or II, depending on where they intend to fish.
- ! Changes to the names and boundaries of the New England multispecies sink gillnet fishery and the U.S. mid-Atlantic coastal gillnet fishery to reflect a change in the Northeast Multispecies Fishery Management Plan and to eliminate a boundary overlap.
- ! Separation of the Oregon swordfish/blue shark surface longline fishery into the "Oregon swordfish floating longline fishery" and the "Oregon blue shark floating longline fishery" to reflect the current fishery licensing practices in the State of Oregon. Both fisheries would remain in Category II.

In addition, because there has been confusion regarding the definitions of trawl fisheries in the U.S. North Atlantic, NMFS specifically requests public comments on appropriate definitions of the trawl fisheries.

NMFS proposes that, if registration information can be supplied through integration with existing state, interjurisdictional, or federally managed fisheries registration systems, individual fishers would automatically be registered under the MMPA and would not have to fill out separate registration materials.

Comments on the proposed List of Fisheries must be submitted to NMFS by October 15, 1996. For more information or a copy of the Federal Register notice, contact [Robyn Angliss](#) at (301) 713-2322.

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New Publications Available

"The 1995 Annual Report to Congress on the Marine Mammal Protection Act".

This report focuses on research and management activities conducted by NMFS in 1995 relative to the 1994 amendments to the MMPA and their significance to the MMPA's goals regarding

resource management and marine mammal protection, in addition to providing an annual update on other programs."Rescue, Rehabilitation and Release of Marine Mammals: An Analysis of Current Views and Practices", Proceedings of a Workshop held in Des Plaines, Illinois, 3-5 December, 1991, edited by D. J. St. Aubin, J.R. Geraci and V.J. Lounsbury, NOAA Technical Memorandum NMFS-OPR-8, July 1996.

In response to increasing questions about when and if rehabilitated marine mammals should be released into wild populations, the Marine Mammal Commission and the NMFS sponsored a workshop in Des Plaines, Illinois, in December 1991 to examine this issue. This is a report of that workshop.

Publications are available by writing or calling the Office of Protected Resources at the [addresses listed below](#)

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Pinniped-Fishery Interaction Task Force to Meet

On August 26, 1996, NMFS published notice in the Federal Register of a public meeting of the Ballard Locks Pinniped-Fishery Interaction Task Force. The Task Force meeting will be held September 16-17, 1996 in the Snoqualmie Room at the Marriott Hotel, 3201 S. 176th Street, Seattle, Washington. Meeting hours will be from 9 AM to 5 PM each day. The Task Force was formed in 1994 pursuant to Section 120 of the MMPA to provide recommendations to NMFS on an application from the State of Washington for the lethal removal of California sea lions that were negatively impacting a wild run of winter steelhead that migrate through the Ballard Locks. Section 120 of the MMPA provides the process under which states may apply for authority to intentionally lethally remove pinnipeds which are having a significant impact on the decline or recovery of salmonid fishery stocks.

As previously reported in the MMPA Bulletin, the Task Force recommended approval of lethal removal of individually identifiable California sea lions at the Ballard Locks. On January 4, 1995, NMFS issued a 3-year Letter of Authorization (LOA), with conditions, for lethal removal of individually identified California sea lions. To date, no sea lions have been lethally removed at the Ballard Locks. Three of the principal problem sea lions were captured in 1996 and removed from the Ballard Locks by placing them in permanent captivity at Sea World in Orlando, Florida.

As required by Section 120, the Task Force is being reconvened to evaluate the effectiveness of the lethal removal authorization and alternative measures which were implemented by Washington during the 1995/96 winter steelhead season. The meeting is open to the public; however, the public will not be allowed to discuss or debate the issues with members of the Task Force at the meetings. There will be an opportunity for the public to provide comments to the Task Force at 4 PM on the first day of the meeting. For more information, contact Joe Scordino at (206)

Former Navy Dolphins Rescued in Florida Keys

As mentioned in the last issue of the MMPA Bulletin ("[What Should We Know Before We Free Willy?](#)"), NMFS embarked upon a rescue effort to recover the dolphins "Buck" and "Luther" who were illegally transported and released to the wild off Key West, Florida, in May 1996. In a related action, NMFS, in cooperation with the Animal and Plant Health Inspection Service (APHIS), seized the dolphin "Jake" from the Sugarloaf Dolphin Sanctuary (SDS) facility on Sugarloaf Key in June 1996. Both efforts were conducted under the authority of the MMPA and at the direction of on-site NMFS personnel from the Office of Protected Resources and the Office of Enforcement. NMFS and APHIS had been in the process of planning and obtaining a warrant for the seizure of all three dolphins when the unauthorized release of Buck and Luther occurred. The team organized by NMFS to assess the health of Buck and Luther was comprised of personnel from the Dolphin Research Center (DRC), the U.S. Navy's marine mammal research program, Florida Keys Wildlife Rescue, the Marine Mammal Conservancy, and the Florida Keys National Marine Sanctuary. Additional logistical assistance was provided by the U.S. Naval Air Station in Key West, the Florida Marine Patrol, and the U.S. Coast Guard.

Immediately after the release of Luther on May 23, he appeared in Key West marinas and public waterways alone, visibly underweight and with three deep lacerations on his right side below the dorsal fin. The NMFS rescue team was assembled on May 25, and observed Luther approaching moving vessels, interacting with the public, performing trained behaviors, begging for food, and being fed fish-bait and unidentified objects. Luther's behavior demonstrated that he was still highly conditioned and dependent upon human care indicating that he was not prepared for life in the wild. The NMFS rescue team was particularly concerned about Luther's poor body condition and injuries which required prompt medical attention.

On May 30, the NMFS rescue team was able to safely secure Luther in a lagoon at the U.S. Naval Air Base on Boca Chica Key and provide him with necessary veterinary care. The professional marine mammal trainers who were part of the rescue team were able to work easily with Luther without causing him stress by using standard operant conditioning training techniques. Luther's responsiveness to an acoustic recall and hand signals enabled the team to engage him in a trained boat-follow and lead him to safety without ever having to deploy a net for capture.

On June 4, Buck was found in Vaca Cut near Marathon Key in considerably worse body condition than Luther. Buck was emaciated and had numerous injuries: three deep gashes on his head between the blow hole and dorsal fin, a deep puncture wound on his right side below the dorsal fin, and four long horizontal lacerations on the left side of his peduncle. Buck's emaciated condition was evident by the concave shape of his head, the protrusion of his scapulae, and the